



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 12, 2001

Re: Order Requiring Installation of Measuring Devices

Dear Water User,

The Department of Water Resources (the Department) has issued the enclosed preliminary order requiring installation of measuring devices and controlling works for ground water diversions discharging to the Timberdome Canal. Pursuant to Section 67-5243, Idaho Code, the preliminary order will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet. The records of the Department and Water District 34, Big Lost River and tributaries, indicate that you are a water right holder who owns or operates a well that discharges to the Timberdome Canal. A copy of the order and this letter is being sent to those users identified in Attachment A of the order.

This year both the water district and department received a number of calls from users on the canal and/or owners/operators of the Timberdome wells concerning water delivery problems. The watermaster and department found that most wells discharging to the canal do not have adequate measuring devices. Some wells may also lack adequate valves or controlling works. As a result, most wells are not measured, the ditch rider and water district watermaster are required to estimate pumped flows and may be unable to accurately control the diversions. Additionally, there may also be a lack of adequate measuring devices on the canal re-diversions. It is the opinion of both the watermaster and the department that many of the canal delivery problems can be resolved by improved measurement of the wells discharging to the canal as well as the re-diversions from the canal. Specifically, installing permanent measuring devices and measuring the well injections and canal re-diversions on a daily or regular basis will improve distribution of water on the canal.

This year the water district spent considerable time making periodic measurements of the Timberdome Canal wells to assist with delivery problems or concerns. Department personnel also measured some of these wells. Many of these wells are difficult to measure with portable meters due to aeration, lack of available exposed straight pipe upon which to mount a meter, non-standard pipe flow conditions and other reasons. We also understand that ground water levels in this area may fluctuate in this area. Significant fluctuations in water level can result in well discharge changes that in turn require more frequent measurements. These fluctuations increase the need for daily measurements. It is unreasonable to expect the water district to devote its limited resources to frequent measurement of the Timberdome wells each year using its portable equipment. Although the water district is responsible for assuring that diversions from wells in the district are measured, reported and limited to authorized amounts, it is the responsibility of the water users to provide measuring devices or a means to accurately measure the discharge.

In view of the variety of problems the district and the department has had this year in measuring the Timberdome wells, the attached order requires that users submit plans for installing measuring devices no later than January 1, 2002. These plans must be submitted before installing any measuring devices and controlling works. The request for plans is consistent with Section 42-701(1) of the Idaho Code. Moreover, the department is concerned that without plans it is likely that the devices selected and installed will not deliver accurate measurements of the water. The measuring devices need to provide for measurement of diversion rate and total annual volume diverted to an accuracy of +/- 10 percent.

The department and water district suggest that users consider installation of the following measuring devices and control works:

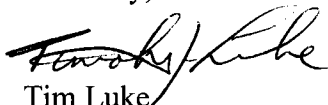
- Totalizing flow meters in pipelines.
- Orifice plates and manometers in pipelines (note that orifice plates may not necessarily address aeration problems in some wells. Pipelines may need to be reduced in some cases).
- Open channel weirs, flumes or orifices. There are a number of weirs and flumes that could be installed to measure water pumped into a ditch. The selection of one of these devices would require the replacement of pipelines with ditches.
- Acceptable control works may include any valve that is capable of being locked.

It is recommended that there be some consistency applied in the selection and installation of measuring devices for easier and more consistent measurement and distribution of water by the watermaster and ditch rider.

To assist with selection of devices and development of plans, department staff and the watermaster are willing to visit with the users to discuss measurement options. We recommend a group meeting be held rather than conducting separate or individual visits. We recommend that such meeting be held sometime in October or early November at a time convenient to the users. The watermaster may arrange a meeting date with the users.

The Department and Water District appreciates your cooperation and prompt attention to this matter. Please contact me at the above address or call me directly at 208-327-7864 if you have questions regarding this matter. You may contact me by E-mail at tluke@idwr.state.id.us

Sincerely,



Tim Luke
Water Distribution Section

Cc: Mailing List

Doug Rosenkrance, Watermaster
IDWR Eastern Region

Enclosure

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF REQUIRING MEASURING)
DEVICES AND CONTROLLING WORKS ON)
GROUND WATER DIVERSIONS DISCHARGING) PRELIMINARY
TO THE TIMBERDOME CANAL, PART OF) ORDER
WATER DISTRICT 34)
_____)

During the 2001 irrigation season the watermaster of Water District 34 and the Idaho Department of Water Resources (Department) responded to a number of calls and complaints regarding water distribution problems on the Timberdome Canal. A number of ground water diversions that are subject to measurement and control by the Water District 34 watermaster discharge to the Timberdome Canal. Ground water that is diverted to the Timberdome Canal is then re-diverted by various laterals or pumps from the Canal. The Water District watermaster has responsibility for measurement of irrigation ground water diversions in Water District 34, including all of those ground water diversions that discharge to the Timberdome Canal. After consultation with the watermaster of Water District 34 and Department inspection of the ground water diversions that discharge to the Timberdome Canal, the Department finds that either no measuring devices or inadequate measuring devices presently exist for most of these ground water diversions. Additionally, some wells may lack adequate control devices for regulation purposes. Both the watermaster and the Department believe that measuring devices must be installed on these diversions in order to assure proper delivery of water on the Timberdome Canal, minimize water delivery disputes on the canal and minimize the time and resources that must be provided by the water district.

Section 42-701, Idaho Code, provides:

42-701. INSTALLATION AND MAINTENANCE OF CONTROLLING WORKS AND MEASURING DEVICES BY WATER APPROPRIATORS – PROCEDURE UPON FAILURE TO INSTALL AND MAINTAIN – MEASURING AND REPORTING OF DIVERSIONS – PENALTY FOR FAILURE TO COMPLY – REPORT FILING FEE.

1. The appropriators or users of any public waters of the state of Idaho shall maintain to the satisfaction of the director of the department of water resources suitable headgates and controlling works at the point where the water is diverted. Each device shall be of such construction that it can be locked and kept closed by the watermaster or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point. Each such appropriator shall construct and maintain, when required by the director of the department of water resources, a rating flume or other measuring device at such point as is most practical in such canal, ditch, wellhead or pipeline for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said canal, ditch, wellhead or pipeline from the stream, well or other source of public water. Plans for such headgates, rating flumes or other measuring devices shall be approved by the department of water resources. ...

3. Any appropriator or user of the public waters of the state of Idaho that neglects or refuses to construct or maintain such headgates, controlling works, or measuring devices..., upon receiving ten (10) days' notice from the director of the department of water resources within which to begin and diligently pursue to completion the construction or installation of the required device or devices or to begin and diligently pursue to completion a remedy to such defects as exist in accordance with said notice, then the director of the department of water resources may order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion, the water owned by such appropriator or user until the user does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist or the director may take action pursuant to section 42-1701B, Idaho Code, to enforce the requirement to construct, install or maintain such devices.

4. The appropriators or users of the public waters of the state of Idaho shall be given a reasonable time within which to complete construction of such headgates, controlling works or measuring devices, depending upon the size and extent thereof, when due diligence has been used in the prosecution of such work.

ORDER

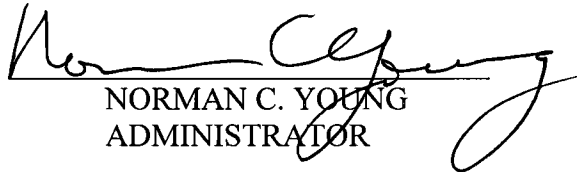
IT IS HEREBY ORDERED AS FOLLOWS:

1. All diversions discharging water to the Timberdome Canal shall be equipped with measuring devices and controlling works of a type acceptable to the Department prior to diverting water during the 2002 irrigation season.

2. The records of the Department and Water District 34 indicate that those water users identified in Attachment A are the current water right holders of record associated with diversions that discharge to the Timberdome Canal. Owners of diversions discharging to the Timberdome Canal must submit plans for measuring devices and controlling works to IDWR no later than January 1, 2002. Plans shall be reviewed by the Department to determine whether proposed measuring devices and controlling works are of a type acceptable to the Department.

3. The watermaster shall shut off and refuse to deliver water from any diversion discharging to the Timberdome Canal that is not properly equipped with adequate measuring devices and controlling works during the 2002 irrigation season.

Dated this 11TH day of OCTOBER, 2001.


NORMAN C. YOUNG
ADMINISTRATOR

Attachment A

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 12th day of October, 2001, the attached correspondence was served upon the following individuals by placing a copy of the same in the United States Mail, postage prepaid, certified with a return receipt and properly addressed as follows:

Todd Perkes
Rt 1 Box 69
Moore, Id 83255

Eric Aikele
PO Box 210
Arco, Id 83213

Juel Aikele
3575 W 2500 N
Moore, Id 83255

PU Ranch
4500 Imperial Ave.
San Diego, CA 92113

Marc Hansen
Rt 1 Box 63A
Moore, Id 83255

Steven Aikele
Rt 1 Box 63F
Moore, Id 83255

Kurt Acor
Rt 1 Box 35A
Moore, Id 83255

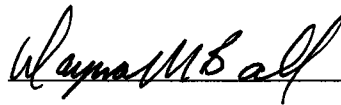
Mitchell Sorenson
3871 W 2500 N
Moore, Id 83255

Gary Rogers
PO Box 476
Arco, Id 83213

Allen Cannon
Cannon Shelley Property, LTD
1470 N 750 E
Shelley, Id 83274

Bruce Soelberg
1482 Three Fountains Dr.
Idaho Falls, Id 83404

Rodney Pearson Estate
Rt 1 Box 38
Moore, Id 83255



Dayna M. Ball, Office Specialist II
Water Distribution Section

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board ([Board]) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.